Remarks: Litigation, IDSs

Patents related to the present application are in litigation, namely U.S. Patent Nos. 6170014, 6282573, and 6606664. The undersigned is not one of the litigators, but has been given information from the patentee's litigators alleging prior art against those patents. The information may or may not be relevant to the claims presented here, but it is hereby made available to the Office. Some information is provided in the present IDS, and other information can be obtained by an Examiner's request under Rule 105.

In particular, the IDS submitted here includes "Defendants' Invalidity Contentions" which contains, among other information, a list of alleged prior art non-patent references. However, most of these references have not actually been provided to the undersigned, or (as of September 10) provided to the patentee's litigators, so they are not submitted here.

Also, some of the information that was provided by defendants is voluminous, and was given to the undersigned on CDs. CDs cannot be filed in an IDS; MPEP 609.04(a). The undersigned confirmed with the Office by email on August 6 that the non-PDF files on the CDs cannot be submitted through EFS-WEB; that email exchange is submitted in the present IDS. Accordingly, if the Examiner believes that information asserted as prior art against these patents might be material to the present application, then the Examiner is invited to state a Rule 105 requirement regarding the CDs.

Remarks: Prior Art Rejections

On the merits, the Final Action page 2 citation of <u>In re Fulton</u> is not on point, because Fabrizio goes beyond "mere disclosure of more than one alternative". Fabrizio teaches *substituting* one caching mechanism for another caching mechanism: "The OSM cache engine is programmed to disable the traditional cache 206 *to prevent duplication of the cache function.*" Fabrizio, column 4 lines 63-65, emphasis added. Fabrizio's goal is to prevent extra caching, not to prevent copying protected content.

Stated differently, Fabrizio fails to disclose disabling caching *to prevent copying* as claimed. Whatever alternatives Fabrizio may be disclosing, the claimed limitation is not among them, so it does not matter whether Fabrizio also discourages cache disabling for copy prevention – Fabrizio does not teach cache disabling for copy prevention.

Conclusion

Applicants and Assignee respectfully request allowance of the claims. In the event of any questions, the undersigned invites a telephone call from the Office.

Please note the undersigned's new address below.
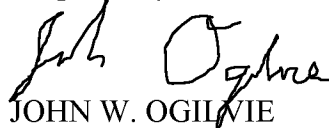
Dated October 20, 2009.

\pm4-RCEAmend-corrected-5045-2-1D

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this Amendment (Corrected) is being submitted to the Commissioner for Patents through EFS-WEB, on October 20, 2009.